



The British Columbia Gazette.

PUBLISHED BY AUTHORITY.

Vol. XXII.]

VICTORIA, JANUARY 21st, 1882.

[No. 3.

Table of Contents.

Government Notices.

	PAGE.
PROCLAMATIONS.	
Convening Legislative Assembly	17
PROVINCIAL SECRETARY'S DEPARTMENT.	
Appointment of Fence Viewers for Esquimalt District....	17
TREASURY DEPARTMENT.	
Redemption of certain Debentures	17
LANDS AND WORKS DEPARTMENT.	
Establishing certain Highways in South Saanich.....	19
Inviting Tenders for maintaining Ferry at Kootenay.....	18
Inviting Tenders for maintaining Ferry at Lillooet	18
Inviting Tenders for maintaining Ferry across Thompson River, at Savona's.....	18
Reducing width of Highway, New Westminster District..	18
Notice of survey of Lot 471, Group 1, New Westr. District	18
Notice of survey of Section 9, Nanaimo District.....	19
Establishing a Public Highway in Esquimalt District	18
Sale of Section 15, Group 1, Cariboo District.....	18
Notice of survey of Secs. 2, 3, 4, 5, 6, Helmcken District..	19
Establishing a Public Highway in Township No. 11, New Westminster District	19

Miscellaneous Notices.

Laying over Mining Claims in Cariboo District	23
Laying over Mining Claims in Cassiar District	22
Private Bills—Legislative Assembly	19
Respecting the issue of Indefeasible Titles to C. E. Pooley and Isaac Birch Fisher.....	22
Private Bills—Dominion Parliament.....	19
Respecting issue of Crown Grant to I. & D. Oppenheimer.	23
Application to purchase 160 acres of land by Hugh McKay	23
Application to purchase 160 acres of land by G. Robinson,	23
Application to purchase 320 acres of land by J. D. Warren	24
Application for Private Bill by G. E. Corbould.....	24
Application for Private Bill by S. P. Mills	24
Laying over Mining Claims in Yale District.....	22
Application to purchase 160 acres of land by R. Draney ..	22
Application for Private Bill by J. Patmore Walls.....	22
Application for Private Bills by J. Roland Hett	22, 23
Application for Private Bill by Charles Wilson.....	23
Sale of land for taxes in Hope and Yale Polling Divisions	24
Application for Private Bill by Andrew Leamy	22
Application for Private Bill by Trust and Loan Co., Canada	23
Application for Private Bill by D. M. Eberts.....	23
Application to purchase 160 acres land by Nam Sing.....	23
Notices to Taxpayers	20, 21,
List of Agreements under "Cattle Exemption Act, 1871" ..	24
Application for Private Bill by Thornton Fell.....	23
LEGAL NOTES.	
Saunders v. Reed Bros.....	25
Harvey v. Corporation of New Westminster	27
Pamphlet v. Irving.....	28

Appointments.

PROVINCIAL SECRETARY'S OFFICE,
18th January, 1882.

HIS HONOUR the Lieutenant-Governor has been pleased to appoint WILLIAM TYLER, ARTHUR PEATT, Jr., and GEORGE J. S. COOK, Esquires, to be Fence Viewers in and for the Electoral District of Esquimalt.

Proclamations.

[L.S.] CLEMENT F. CORNWALL.

CANADA.

PROVINCE OF BRITISH COLUMBIA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., &c., &c.

To Our faithful the Members elected to serve in the Legislative Assembly of Our Province of British Columbia, and summoned and called to a meeting of the Legislature or Parliament of Our said Province, at Our City of Victoria, on Monday, the Twenty-third day of January, instant, to have been commenced and held, and every of you—GREETING.

A PROCLAMATION.

GEO. A. WALKEM, } WHEREAS the meeting of
Attorney-General. } the Legislature or Parliament of the Province of British Columbia, stands called for Monday, the Twenty-third day of January instant, at which time, at Our City of Victoria, you were held and constrained to appear.

NOW KNOW YE, that for divers causes and considerations, and taking into consideration the ease and convenience of Our loving subjects, We have thought fit, by and with the advice of Our Executive Council of the Province of British Columbia, to relieve you, and each of you, of your attendance at the time aforesaid; hereby convoking, and by these presents enjoining you, and each of you, that on THURSDAY, the TWENTY-THIRD day of the month of FEBRUARY next, you meet Us in Our said Legislature or Parliament of Our said Province, at Our City of Victoria, FOR THE DISPATCH OF BUSINESS, to treat, do, act, and conclude upon those things which in Our Legislature of the Province of British Columbia, by the Common Council of Our said Province may, by the favour of God, be ordained.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of the said Province to be hereunto affixed: WITNESS, the Honourable CLEMENT F. CORNWALL, Lieutenant-Governor of Our said Province of British Columbia, in Our City of Victoria in Our said Province, this twentieth day of January, in the year of Our Lord one thousand eight hundred and eighty-two, and in the forty-fifth year of Our Reign.

By Command.

JAMES CHARLES PREVOST,
District Registrar, Supreme Court,
Victoria Judicial District.

Government Notices.

42 VIC., CAP. 28, STATUTES OF BRITISH COLUMBIA.

PUBLIC DEBT REDEMPTION.

GOVERNMENT OF BRITISH COLUMBIA.

NOTICE IS HEREBY GIVEN, in accordance with the Statute, that the following Debentures, issued under the authority of the above Act, will be redeemed on presentation at the Treasury, Victoria, B. C., on the 10th July, 1882, and that all interest on the said Debentures will cease on that date:—

Numbers 3, 19, 29, 30, 32, 49, 51, 52, 73, 90, 91.

JAMES JUDSON YOUNG,
Deputy-Treasurer.

Treasury, Victoria,
29th December, 1881.

PUBLIC NOTICE.**LILLOOET DISTRICT.**

SEALED TENDERS, properly endorsed, will be received by the undersigned, up to 12 o'clock noon of 20th January next, for the right of maintaining a Ferry across the Fraser River, at Lillooet, for a term of five years.

The Contractor shall provide and maintain a substantial ferry boat, and proper tackle for working the same.

Any Government ferry plant now at this place will be at the disposal of the Contractor for use in plying such ferry.

Tenders to state the rate of toll for every—

Passenger,
Loaded animal,
Unloaded animal,
Freight waggon,
Spring waggon or buggy,
Cattle and horses,
Sheep, pig, or goat,

And such other terms as the bidder may consider advisable.

All Officers of the Provincial Government, with their animals and freight, to pass free.

The competition will be on the amount of rent payable by bidders to the Government, or, if no rent be offered, on such other terms as may be submitted by them. The Government to have the right of selecting such Tender as they may consider most favourable to them.

With each Tender must be submitted the names of two responsible parties, willing to sign a Bond for the sum of \$250 as security for the faithful carrying out of the contract.

GEO. A. WALKEM,

Chief Commissioner of Lands & Works.

*Lands & Works Department,
Victoria, November 1st, 1881.*

PUBLIC NOTICE.**KOOTENAY DISTRICT.**

SEALED TENDERS, properly endorsed, will be received by the undersigned, up to noon of the 27th of January next, for the right of maintaining a Ferry, for a period of five years, at a point situated on the Kootenay River at the mouth of the St. Mary's River; the ferry right to extend five miles above and five miles below said point.

The party to whom the charter may be awarded shall have the right to collect the following Tolls viz.:

For every passenger.....	\$0 50
Do. loaded animal.....	1 00
Do. unloaded animal.....	50
Do. head of cattle, sheep, hogs, &c.	25

The competition will be on the amount of rent payable to the Government.

With each Tender must be submitted the names of two responsible parties, willing to sign a Bond for the sum of \$500 for the faithful carrying out of the agreement.

GEO. A. WALKEM,

Chief Commissioner of Lands & Works

*Lands & Works Department,
Victoria, 1st November, 1881.*

HIGHWAY NOTICE.**ESQUIMALT DISTRICT.**

NOTICE IS HEREBY GIVEN that a Public Highway, 66 feet in width, is hereby established, as follows, viz.:

Commencing at the north-east corner of Suburban Lot 25, Esquimalt District; thence north, along the line between Suburban Lots 53 and 54, Esquimalt District, to its intersection with the shore line of Esquimalt Harbour, and having a width of 66 feet throughout, measured to the east of said line.

GEO. A. WALKEM,

Chief Commissioner of Lands & Works.

*Lands & Works Department,
Victoria, December 3rd, 1881.*

PUBLIC NOTICE.**KAMLOOPS DIVISION—YALE DISTRICT.**

SEALED TENDERS, properly endorsed, will be received by the undersigned, up to 12 o'clock noon of 20th January next, for the right of maintaining a Ferry across the Thompson River, at Savona's, for a term of five years.

The Contractor shall provide and maintain a substantial ferry boat, and proper tackle for working the same.

Any Government ferry plant now at this place will be at the disposal of the Contractor for use in plying such ferry.

Tenders to state the rate of toll for every—

Passenger,
Loaded animal,
Unloaded animal,
Freight waggon,
Spring waggon or buggy,
Cattle and horses,
Sheep, pig, or goat.

And such other terms as the bidder may consider advisable.

All Officers of the Provincial Government, with their animals and freight, to pass free.

The competition will be on the amount of rent payable by bidders to the Government, or, if no rent be offered, on such other terms as may be submitted by them. The Government to have the right of selecting such Tender as they may consider most favourable to them.

With each Tender must be submitted the names of two responsible parties, willing to sign a Bond for the sum of \$250 as security for the faithful carrying out of the contract.

GEO. A. WALKEM,

Chief Commissioner of Lands & Works.

*Lands & Works Department,
Victoria, B.C., November 12th, 1881.*

PUBLIC NOTICE.**CARIBOO DISTRICT.**

NOTICE IS HEREBY GIVEN that Section 15, Group 1, Cariboo District, containing 181 acres, has been surveyed for Mr. John Girod; and the same will be offered for sale at Public Auction, at the Office of the Government Agent, Barkerville, on Friday, the 20th day of January, 1882, at noon, at the upset price of one dollar per acre.

GEO. A. WALKEM,

Chief Commissioner of Lands & Works.

*Lands & Works Department,
Victoria, B.C., December 1st, 1881.*

NOTICE TO CLAIMANTS OF LAND.**NEW WESTMINSTER DISTRICT.**

NOTICE IS HEREBY GIVEN that Lot 471, Group 1, New Westminster District, has been surveyed, and a map of same can be seen at the Lands and Works Department, Victoria, and at the Office of J. C. Hughes, Esq., Commissioner, New Westminster. Claimants to any portion of this land should prove up their claims as provided by the "Land Act, 1875."

GEO. A. WALKEM,

Chief Commissioner of Lands & Works.

*Lands & Works Department,
Victoria, November 17th, 1881.*

HIGHWAY NOTICE.**NEW WESTMINSTER DISTRICT.**

NOTICE IS HEREBY GIVEN that the Highway established by Gazette Notice, dated 28th May, 1881, is hereby reduced in width from 66 feet to 33 feet, measuring 16½ feet on each side of the quarter section line running East and West through Section 8, Township 7.

GEO. A. WALKEM,

Chief Commissioner of Lands & Works.

*Lands & Works Department,
Victoria, B.C., November 12th, 1881.*

PUBLIC HIGHWAYS.**SOUTH SAANICH.**

NOTICE IS HEREBY GIVEN that the following Highways, 40 feet in width, are hereby established in South Saanich District, viz.:—

A Highway along the range line between Ranges 4 and 5 East, through Section eleven (11), and 20 feet on each side of said line.

A Highway commencing at a point where the East Saanich Road crosses the line between Sections 14 and 15; thence due East along said section line, through Ranges 4, 5, and 6 East, to the sea-shore, and 20 feet on each side of said line.

A Highway along the range line between Ranges 4 and 5 East, through Section fifteen (15), and 20 feet on each side thereof. This line is intended to vary and is in substitution of an existing line of road which runs through Section 15 in a north-westerly direction, and which shall hereafter be discontinued, as provided by Section 73 of the "Land Act, 1875."

GEO. A. WALKEM,
Chief Commissioner of Lands & Works.

*Lands & Works Department,
Victoria, October 21st, 1881.*

NOTICE TO CLAIMANTS OF LAND.**NANAIMO DISTRICT.**

NOTICE IS HEREBY GIVEN that Section 9, Nanaimo District, has been surveyed for Mr. J. Biggs, and a map of same can be seen at the Lands & Works Office, Victoria, and at the Office of Marshal Bray, Esq., Commissioner, Nanaimo.

Claimants to any portion of this land should prove up their claims as provided by the "Land Act, 1875."

GEO. A. WALKEM,
Chief Commissioner of Lands & Works.

*Lands & Works Department,
Victoria, November 17th, 1881.*

NOTICE TO CLAIMANTS OF LAND.**HELMCKEN DISTRICT.**

NOTICE IS HEREBY GIVEN, that Sections 2, 3, 4, 5, and 6, Helmcken District, have been surveyed, and a map of same can be seen at the Land Office, Victoria.

Persons having claim to any portion of the above lands should prove up their claims according to the provisions of the "Land Act, 1875."

GEO. A. WALKEM,
Chief Commissioner of Lands & Works.

*Lands & Works Department,
Victoria, January 12th, 1882.*

PUBLIC HIGHWAY.**NEW WESTMINSTER DISTRICT.**

NOTICE IS HEREBY GIVEN that the following Highway, 33 feet in width, is hereby established in Township No. 11, New Westminster District, viz.:—

Commencing at the North-east corner of Lot 316, Group 2; thence true West, along the line between Lots 316 and 318 and a continuation of the same, to the Langley trunk road; and having a width of 16½ feet on each side of said line.

GEO. A. WALKEM,
Chief Commissioner of Lands & Works.

*Lands and Works Department,
Victoria, B.C., 20th January, 1882.*

Miscellaneous Notices.**DOMINION PARLIAMENT.****Substance of Rules Relating to Notices for Private Bills**

PARTIES intending to apply to Parliament for Private Bills giving any exclusive privilege or profit, or private or corporate advantage, or for the amendment of any former Act of a like nature, are notified that by the Rules of the two Houses of Parliament, published at length in the *Canada Gazette*, they are required to give two months' notice of their intended application in the *Canada Gazette*, and in a newspaper of the County or District affected, and to transmit to the Clerk of each House copies of the newspapers containing the first and last insertion of such notice.

In Quebec and Manitoba, the Notice is to be published in the English and French languages.

Every applicant for a Private Bill is required, eight days before the opening of Parliament, to deposit with the Clerk of the House in which the Bill is to originate, a copy of such Bill, with a sum sufficient to pay for the translation and printing of the same.

Between the second reading of the Bill and its consideration by the Committee to whom it is referred, the applicant is to pay a fee of \$200, besides the cost of printing the Act in the Statutes.

No petition for a Private Bill is received by either House after the expiration of the first ten days of the Session.

ROBERT LEMOINE,
Clerk of the Senate.

JOHN GEORGE BOURINOT,
Clerk of the Commons,
Ottawa, 1st October, 1881. Canada.

LEGISLATIVE ASSEMBLY.**Private Bills.**

ALL APPLICATIONS for Private Bills, properly the subject of legislation by the Legislative Assembly of British Columbia, within the purview of the "British North America Act, 1867," whether for the erection of a Bridge, the making of a Railroad, Turnpike Road, or Telegraph Line; the construction or improvement of a Harbour, Canal, Lock, Dam, or Slide, or other like work; the granting of a right of Ferry; the incorporation of any particular trade or calling, or of any Joint Stock Company; or otherwise for granting to any individual or individuals any exclusive or peculiar rights or privileges whatever, or for doing any matter or thing which in its operation would affect the rights or property of other parties, or relate to any particular class of the community; or for making any amendment of a like nature to any former Act,—shall require a Notice, clearly and distinctly specifying the nature and object of the application, to be published as follows:—

A notice inserted in the *BRITISH COLUMBIA GAZETTE*, and in one newspaper published in the District affected, or if there be no newspaper published therein, then in a newspaper in the next nearest District in which a newspaper is published.

Such notice shall be continued in each case for a period of at least six weeks, during the interval of time between the close of the next preceding Session and the consideration of the Petition.

Before any Petition, praying for leave to bring in a Private Bill for the erection of a Toll Bridge, is presented to the House, the person or persons intending to petition for such Bill shall, upon giving the notice prescribed by the preceding rule, also at the same time and in the same manner, give notice of the rates which they intend to ask, the extent of the privilege, the height of the arches, the interval between the abutments or piers for the passage of rafts and vessels, and mentioning also whether they intend to erect a draw-bridge or not, and the dimensions of the same.

THORNTON FELL,
Clerk of the Legislative Assembly.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****VICTORIA DISTRICT,**

INCLUDING VICTORIA CITY, VICTORIA, LAKE, NORTH AND SOUTH SAANICH, ESQUIMALT, HIGHLAND, METCHOSIN, SOOKE, ALBERNI, CLAYOQUOT, BARCLAY, QUATSINO, SALLAS ISLAND, AND JAMES' ISLAND, DISTRICTS.

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office, at the Treasury, James Bay, Victoria; Assessed Taxes if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.
- If paid after June 30th, 1882:—
- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

Jan. 7th, 1882. R. JONES, Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****NEW WESTMINSTER DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before the 30th June, 1882, are collectible at the following rates, viz:—

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.
- If paid after June 30th, 1882:—
- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

Jan. 7th, 1882. J. C. HUGHES, Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****NANAIMO DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office, Nanaimo; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.
- If paid after June 30th, 1882:—
- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

Jan. 7th, 1882. MARSHALL BRAY, Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****KAMLOOPS POLLING DIVISION OF YALE DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now

due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before 30th June, 1882, are collectible at the following rates, viz:—

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.
- If paid after June 30th, 1882:—
- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

Jan. 7th, 1882. GEORGE TUNSTALL, Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****HOPE AND YALE POLLING DIVISIONS OF YALE DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.
- If paid after June 30th, 1882:—
- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

Jan. 7th, 1882. WALTER DEWDNEY, Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****LYTTON AND CACHE CREEK POLLING DIVISION OF YALE DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.
- If paid after June 30th, 1882:—
- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

Jan. 7th, 1882. FREDERICK HUSSEY, Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****KOOTENAY DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.
- If paid after June 30th, 1882:—
- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

Jan. 7th, 1882. W. FERNIE, Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****ELECTORAL DISTRICT OF COMOX.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office, Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{8}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

W. H. DINGWALL,

Jan. 7th, 1882.

Assessor and Collector

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****COWICHAN, INCLUDING SALT SPRING AND ADJACENT ISLANDS.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{8}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

H. FRY,

Jan. 7th, 1882.

Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****CASSIAR DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{8}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

J. L. CRIMP,

Jan. 7th, 1882.

Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****McDAME CREEK, CASSIAR.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{8}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

R. POOLE,

Jan. 7th, 1882.

Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****LIGHTNING POLLING DIVISION OF ELECTORAL DISTRICT OF CARIBOO.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{8}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

S. ARCHER,

Jan. 7th, 1882.

Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****QUESNELMOUTH, KEITHLEY CREEK, AND WILLIAMS LAKE POLLING DIVISIONS OF ELECTORAL DISTRICT OF CARIBOO.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{8}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

W. STEPHENSON,

Jan. 7th, 1882.

Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****RICHFIELD POLLING DIVISION OF ELECTORAL DISTRICT OF CARIBOO.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{8}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

G. BYRNES,

Jan. 7th, 1882.

Assessor and Collector.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****LILLOOET DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates viz:—

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

WM. LIVINGSTONE,
Assessor and Collector.

Jan. 7th, 1882.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****NICOLA POLLING DIVISION OF YALE DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

J. CLAPPERTON,
Assessor and Collector.

Jan. 7th, 1882.

NOTICE TO TAXPAYERS.**Assessment Act and Provincial Revenue Tax.****OKANAGAN AND ROCK CREEK POLLING DIVISIONS OF YALE DISTRICT.**

NOTICE IS HEREBY GIVEN, in accordance with the Statutes, that Provincial Revenue Tax and all Taxes levied under the Assessment Acts are now due for the year 1882, and payable at my office; Assessed Taxes, if paid on or before June 30th, 1882, are collectible at the following rates, viz:—

- $\frac{1}{3}$ of 1 per cent. on Real Property.
- 5 cents per acre on Wild Land.
- One-fifth of 1 per cent. on Personal Property.
- $\frac{1}{2}$ of 1 per cent. on Income.

If paid after June 30th, 1882:—

- $\frac{1}{2}$ of 1 per cent. on Real Property.
- 6 cents per acre on Wild Land.
- $\frac{1}{4}$ of 1 per cent. on Personal Property.
- $\frac{3}{4}$ of 1 per cent. on Income.

T. McK. LAMBLY,
Assessor and Collector.

Jan. 7th, 1882.

GOLD COMMISSIONER'S NOTICE.**CASSIAR.**

ON AND AFTER the 1st day of October next, all Mining Claims in the Cassiar District may be laid over till the 15th day of June, 1882, subject to the 9th Section of the "Gold Mining Amendment Act, 1872."

A. W. VOWELL,
Gold Commissioner.
Laketon,
17th September, 1881.

IN THE LAND REGISTRY OFFICE.

In the matter of the "Land Registry Ordinance, 1870,"
and

In the matter of the application of CHARLES EDWARD POOLEY and ISAAC BIRCH FISHER, for a Certificate of Indefeasible Title to New Westminster City Lots Nos. 1 and 2, Block 2; Lots Nos. 23 and 26, Block 22; Lot No. 7, Block 23; Lot No. 12, Block 28; and Lots Nos. 7 and 8, Block 34; Suburban Lots Nos. 14 and 15, Block 4; and Lot 9, Block 9. Also, Lot No. 10, Group 2, New Westminster District.

NOTICE IS HEREBY GIVEN, that a Certificate of Indefeasible Title to the above-mentioned Lots will be issued to the above-named Charles Edward Pooley and Isaac Birch Fisher, on the 20th day of January next, unless a valid objection thereto be made to the undersigned in the meantime, in writing, by some person or persons having an estate or interest in said lots or any of them.

Dated 13th October, 1881.

H. B. W. AIKMAN,
Registrar-General.

NOTICE.

NOTICE IS HEREBY GIVEN that I intend to make application to the Chief Commissioner of Lands and Works to purchase one hundred and sixty acres of land, situated on the South side of Rivers Inlet; commencing at a N.E. post, thence running 40 chains on front of inlet, crossing a small creek; thence 40 chains S.W.; thence 40 chains S.E.; and 40 chains to point of commencement.

No mines or minerals are known to exist in the neighbourhood.

ROBERT DRANEY.

Victoria, B.C.,
18th November, 1881.

GOLD COMMISSIONER'S NOTICE.

ON AND AFTER this date all Gold Mining and Mineral Claims in Yale District will be laid over until the 1st May, 1882, subject to the 9th Section of the "Gold Mining Amendment Act, 1872."

GEO. A. WALKEM,
Gold Commissioner.
Victoria, B.C.,
15th November, 1881.

PRIVATE BILL.

NOTICE IS HEREBY GIVEN that JOHN PATMORE WALLS, of Victoria, British Columbia, intends to apply, at the next Session of the Provincial Legislature, for a Private Bill, authorizing his call to the Bar of the Supreme Court of British Columbia.

Dated the 24th day of November, 1881.

PRIVATE BILL.

NOTICE IS HEREBY GIVEN that application will be made to the Legislative Assembly of the Province of British Columbia, at its next Session, for an Act to incorporate a Company to construct and work a Railway from some point on the main line of the Canadian Pacific Railway, at or near the valley of Pitt River, to some point on English Bay, or, on Burrard Inlet, west of Hastings Mill, in the District of New Westminster.

J. ROLAND HETT,
Solicitor for the Applicants.

Langley St., Victoria,
November 25th, 1881.

NOTICE.

NOTICE IS HEREBY GIVEN that application will be made, at the next Session of the Legislative Assembly, for a Private Bill to enable me, the undersigned, to be admitted to practice as a Solicitor and Barrister in the Supreme Court and other Courts of the Province of British Columbia, subject to my passing the necessary legal examinations before Examiners to be appointed.

Dated 8th December, 1881.

ANDREW LEAMY.

NOTICE.

NOTICE IS HEREBY GIVEN that I intend to apply to the Chief Commissioner of Lands and Works for permission to purchase one hundred and sixty (160) acres of land, situated on the North bank of Naas River: Commencing at a stake marked A, on a point about one mile above Graveyard Point, and following the bank of said river upwards, for a distance of eighty chains, to a stake marked B; thence in a Northerly direction, a distance of twenty chains, to a stake marked C; thence in a Westerly direction, a distance of eighty chains, to a stake marked D; thence in a Southerly direction, twenty chains, to point of commencement.

No mining or mineral lands are known to exist in the neighbourhood.

GEORGE ROBINSON.

Naas River, October 20th, 1881.

"CROWN GRANTS ORDINANCE, 1870."

LILLOOET DISTRICT.

NOTICE IS HEREBY GIVEN, that I shall, in pursuance of the provisions of the "Crown Grants Ordinance, 1870," and at the expiration of three calendar months from the date hereof, recommend the issue of a Crown Grant to ISAAC OPPENHEIMER and DAVID OPPENHEIMER, of all those pieces or parcels of land, situate in Lillooet District, consisting of a Pre-emption Claim situate at the upper end of Lake La Hache, about the 117-mile post, on the wagon road, and a Pre-emption Purchase Claim adjoining the first mentioned claim, containing together 320 acres, more or less, and commonly known as "The Gannon Ranch," unless objection be made to me, in writing, in the meantime against the issue thereof.

H. B. W. AIKMAN,
Registrar-General.

Land Registry Office,
Victoria, 5th November, 1881.

NOTICE.

I HEREBY GIVE NOTICE that I intend to apply to the Chief Commissioner of Lands and Works to purchase One hundred and sixty (160) acres of land, at the mouth of Okanagan River, on the East side of Tofino Inlet, Vancouver Island (Latitude by chart 49° 8' 30"); running from a post at the mouth of said river, in a S. E. direction, along bank of river about fifty chains, and a sufficient distance back from said river to enclose 160 acres.

No minerals or mining claims are known to exist in the neighbourhood.

HUGH McKAY.

Victoria, 22nd October, 1881.

NOTICE.

ON AND AFTER 1st November next, all Mineral and Mining Claims in the Cariboo District may be laid over till the 20th day of May, 1882, subject to the 9th Section of the "Gold Mining Amendment Act, 1872."

JOHN BOWRON,
Gold Commissioner.

Richfield,
October 5th, 1881.

Notice of Private Bill.

NOTICE IS HEREBY GIVEN, that I intend to apply to the Legislative Assembly of British Columbia, at its next Session, for an Act to enable me to be called to the Bar of British Columbia.

THORNTON FELL.

Victoria, 4th January, 1882.

NOTICE.

NOTICE IS HEREBY GIVEN that application will be made, at the next Session of the Legislature of British Columbia, for an Act authorising The Trust and Loan Company of Canada to carry on business as a Loan Company in the Province of British Columbia, with like powers as are now possessed by said Company in the Provinces of Ontario and Quebec, and to allow said Company to contract for and recover such rate of interest as may be agreed upon with borrowers, and for other purposes.

Dated 24th November, 1881.

MACDONALD, MACDONALD & MARSH,
Solicitors for Applicants.

PRIVATE BILL.

NOTICE IS HEREBY GIVEN, that CHARLES WILSON, of Barkerville, Cariboo, intends to apply, at the next Session of the Provincial Legislature, for a Private Bill, authorizing his call to the Bar of the Supreme Court of British Columbia and his admission as a Solicitor therein, upon his passing the necessary examination.

Dated 16th November, A.D. 1881.

PRIVATE BILL.

NOTICE IS HEREBY GIVEN that application will be made to the Legislative Assembly of the Province of British Columbia, at its next Session, for an Act to incorporate a Company to construct and work a Railway from some point on Burrard Inlet to some point on or near Semiahmoo Bay, in the District of New Westminster.

J. ROLAND HETT,
Solicitor for the Applicants.

Langley St., Victoria,
November 25th, 1881.

PRIVATE BILL.

NOTICE IS HEREBY GIVEN that application will be made to the Legislative Assembly of the Province of British Columbia, at its next Session, for an Act to incorporate a Company to construct and work a Railway from Esquimalt Harbour via Nanaimo, to some point on or near Seymour Narrows, Vancouver Island, and for a grant of public lands in aid thereof.

J. ROLAND HETT,
Solicitor for the Applicants.

Langley St., Victoria,
January 6th, 1882.

NOTICE.

NOTICE IS HEREBY GIVEN, that I intend to make application to purchase one hundred and sixty (160) acres of Crown land, situate on the East bank of Fraser River; from a point about 6 miles North of Quesnelle, due East about three-quarters of a mile, and about one mile from the Hopeful Flat Mining Company's claim; commencing at a pine post marked N.W.C.; thence East, 40 chains, to a post marked N.E.C.; thence South, 40 chains, to a post marked S.E.C.; thence West, 40 chains, to a post marked S.W.C.; thence 40 chains to point of commencement.

NAM SING.

Barkerville, December 20th, 1881.

PRIVATE BILL.

NOTICE IS HEREBY GIVEN that D. M. EBERTS, of Victoria, B. C., intends to apply, at the next Session of the Provincial Legislature, for a Private Bill, authorizing his call to the Bar of the Supreme Court of British Columbia.

Dated 23rd December, 1881.

NOTICE.

NOTICE IS HEREBY GIVEN that I intend to apply to the Legislative Assembly of British Columbia, at its next Session, for an Act to enable me to be called to the Bar of British Columbia.

Dated November 1st, 1881.

G. E. CORBOULD.

NOTICE.

NOTICE IS HEREBY GIVEN that application will be made, at the next Session of the Legislative Assembly, for a Private Bill to enable me, the undersigned, to be admitted to practice as a Solicitor and Barrister in the Supreme Court and other Courts of the Province of British Columbia, subject to my passing the necessary legal examinations before Examiners to be appointed.

Dated 8th day of November, 1881.

SAMUEL PERRY MILLS,

The Petitioner in Person.

NOTICE.

NOTICE IS HEREBY GIVEN that I intend to make application to purchase three hundred and twenty (320) acres of land, situated as follows:—

One hundred and sixty (160) acres on the West shore of Iceberg Bay, at a point known as Double Point; thence Westerly, 40 chains, to a post marked B; thence Southerly, 40 chains, to a post marked C; thence Easterly, to a post marked D, on the coast line, 40 chains; thence following the shore line, and including mud flats and two small islands, to the place of commencement; as also one hundred and sixty (160) acres situated on the South shore of Naas River, commencing at a post marked A, near Leading Point, running East along the shore line, 80 chains, to post B; thence South, 20 chains, to post C; thence West, 80 chains, to post D; thence North, 20 chains, to place of commencement.

No mining claims or mineral lands are known to exist in the neighbourhood.

J. D. WARREN.

Victoria, 7th November, 1881.

“CATTLE EXEMPTION ACT, 1871.”

The following List of Agreements, registered under the “Cattle Exemption Act, 1871,” is hereby published in pursuance of Section 5 of the said Act.

PARTIES.				CATTLE.	FARMER.
Name.	Residence.	Occupation.	Date.	No. of each description.	Name of
William Arthur	Esquimalt Town.....	Hotel-keeper	21st Sept., 1877..	204 head of cows, heifers, steers, yearlings, and calves, 6 work oxen, and 1 bull	James Arthur.
and James Arthur	New Westminster Dis't.	Farmer			
Frederick Williams ..	Esquimalt District.....	Manager, Naval	19th June, 1878..	21 cows, 1 heifer, 4 yearling heifers, 1 bull, 1 mare, 3 2-year old steers	Wm. T. Arthur.
and William T. Arthur ..	Minster District Centreville, New West-	Farmer			
Frederick Soues	Clinton.....	Accountant.....	27th Sept., 1879	152 cows and calves 66 steers.....	Thos Richardson
and Thomas Richardson..	Vailey Chappron Lake, Douglas	Stock Farmer.....			
William H. Ladner..	Boundary Bay N.W.D...	Farmer	11th May, 1881..	5 cows, in and with calf, and increase	Sam'l W. Barnes
and Samuel W. Barnes....	Do. do.	Farmer			
Mary A. Ladner.....	Ladner's Landing.....	Wife of W. H.	11th May, 1881..	5 cows, in and with calf, and increase	Martin P. Barnes
and Martin P. Barnes....	Boundary Bay.....	Ladner			
		Farmer			

Land Registry Office,
4th January, 1882.

H. B. W. AIKMAN,
Registrar-General.

SALE OF LAND FOR TAXES.

Taxes remaining unpaid in the Hope and Yale Polling Divisions of Yale District, under the Assessment Acts.

No. on Roll.	Name of person assessed.	Description of Tax.	Description of the Parcels, Sections, or Lots.	Amount.
54	York, Thomas	Real Property	Block 17, Lot 14	\$ 1 00
71	Henderson, J. H.	"	Suburban 5, Lot 2	3 50
23)	Brown, W. H.	"		
113)	Cran, James, Agent.....	"	Hope Town—Block 4, Lot 4 (No. 23, 1880 \$1; '81 \$1.50)	2 50
131	Gascoigne, J. R.	"	" XI, " 8	1 50
152	Uren, James.....	"	Suburban Lands, Hope—Block I, Lot 19	75
179	Evans, William	"	Country Lands—Lot 11, Group 1, 4 acres	75
184 & 185	Farr, Joseph	Real & Personal Property	" " 31, 32, " 1, 163 "	37 35
189	Agassiz, L. A.	Real Property	" " 36, " 1, 189 "	6 50
190	Agassiz, J. B.	"	" " 37, " 1, 166 "	5 20
193 & 194	{ Charles, William } Trustees..	" & Wild L.	" " 10, G. 1, 119 ac., L. 19, G. 1, 684 ac.	72 54
42 46 200	{ Woods, C. T. }			
	Lempriere, A. R.	"	Hope—Lot I, G. 1 (1879 \$9 18; 1880 \$9 18; 1881 \$11 52)	29 88
209	Croft, Edward	"	" " 10, Group 1, 53 acres.....	4 18
246	Tin, Ah	Personal Property		1 00
247	Churton, Arthur.....	Real & Personal Property	Douglas Street, Yale, Railroad Hotel	5 50

And, in accordance with the law, I hereby give notice that I shall offer for sale, by Public Auction, any lands of persons assessed by me on which taxes, including Personal Property Tax, together with the cost of advertising and other expenses, remaining unpaid on the day of sale.

Under the Statute, persons liable to pay taxes imposed by the Assessment Acts, are personally liable for the amount thereof, and all lands of such persons situate within the Province are also liable therefor. The taxes are a charge on such lands, having preference over any claim, lien, privilege, or incumbrance of any party, except the Crown, and does not require Registration to preserve it.

The above sale will take place on the 20th January, 1882, at Yale, at 12 o'clock noon.

Yale, B. C.,
28th November, 1881.

W. DEWDNEY,
Assessor and Collector.

SUPREME COURT.

SAUNDERS VS. REED BROTHERS.

Judicature Act, 1879.—Rules of Court.—Practice.—Foreign Law.—Evidence.—Authority to make Rules.

On an application for an order to examine a witness under Stat. 1, Wm. IV., c. 22, sec. 4.

Held, that sec. 17 of the Judicature Act, 1879, having authorized only the Lieutenant-Governor in Council to make Rules of Court, and an Order in Council having ordained that the Rules and Orders in force in the High Court of Justice, in England, on the 1st November, 1877, so far as the same should be applicable, should be the Rules and Orders in force in the Supreme Court of British Columbia, it is a matter here of foreign law to say what Rules, &c., were in force in England on 1st November, 1877; a question of fact to prove which books of English practice are not evidence, and therefore the evidence of an expert is necessary to do so.

That the Judge had no jurisdiction to declare that any particular English Rule, assuming its existence to be proved, was applicable, as the Legislature have said that it is the Lieutenant-Governor in Council who shall alone declare what is a Rule of practice here.

JULY, 21ST AND 22ND, 1880.

Sir M. B. Begbie, C. J.—

This was an application made to me by Mr. A. E. B. Davie on behalf of the plaintiff for an order upon a witness to attend in the Registrar's office and be examined on oath under the Statute 1, William IV., cap. 22, sec. 4, with a view to making his deposition evidence at the trial of the action.

The first thing I have to look to at the commencement of the new order of things introduced yesterday is to see whether I have jurisdiction to make any order or not.

Jurisdiction involves two things, as has been very recently and forcibly elucidated in the McLean case. 1st. There must be jurisdiction over the subject-matter and the persons involved. 2nd. There must be jurisdiction given to the judges by a proper proceeding, taken in conformity either with statute or at common law.

I have not the slightest doubt as to the jurisdiction as regards the first head (*i. e.*) as to my power to make the order for the examination of a witness if properly asked for. But is the order now properly asked for? Is this matter now properly before me, here, in chambers? What is the present rule as to summonses and sittings in chambers? as to notices and services? and what form of order have I now authority to make? For if in any of these matters the present practice (*i. e.* the practice inaugurated yesterday) be not followed, my order will probably be a nullity and need not be obeyed, and perhaps if obeyed, the depositions of the proposed witness would be inadmissible at the trial; and I wish to have before me some reasonable assurance that my order will be effective.

By the 17th section of the Judicature Act, 1879, (assented to 29th April, 1879,) the Lieutenant-Governor in Council (and no other authority is named) may make Rules of Court for carrying this Act into effect, and in particular for the following matters, viz.: 1st. For regulating the sittings of the the judges sitting in chambers, and for regulating the pleading, practice and procedure in the said Supreme Court including all matters connected with writs, forms of action, parties to actions and evidence." And 4th, "For regulating the sittings of the judges in chambers, the issuing and hearing of summonses," etc. And by the interpretation clause "Rules of Court" shall include "forms" and "pleading" shall include "any petition or summons," and "party" shall include "every person served with notice of or attending any proceeding though not named in the record."

By sections 12 and 13 of the Act which, I think, are to be taken together, it would seem that a special order is required to be made by a judge in order that depositions such as are now desired should be admissible at the trial, and the rules of evidence, it is expressly declared, are, save as above, to remain as before the Act.

In the *British Columbia Gazette* of Saturday, 17th July, instant, there appeared a proclamation, dated the 16th instant, appointing Tuesday, the 20th instant as the day on which the Judicature Act was to come into force, and in a subsequent column of the same *Gazette* there appears a copy of an Order in Council dated the same 16th July, reciting the above-mentioned 17th section, and ordaining that on and after the same Tuesday, the 20th July, instant, "The rules and orders in force in Her Majesty's High Court of Justice in England, on the 1st day of November, 1877, so far as the same are applicable to this Province, shall be the rules and orders in force in the Supreme Court of British Columbia."

In England, when the Judicature Acts were about to be put in force there, the all important rules were printed and published so as to inform the public and invite discussion and criticism for upwards of two years before the Act itself was put in operation. It has not been thought necessary here to give more than two clear days notice of the rules, one of them being Sunday. No discussion, criticism, or remonstrance has been possible, and the only question now to be considered, is, "What are the rules in force here under this order?"

Two books were produced, professing to be books of English practice, the one dated on the title page "1877," the other "1878," each containing several sets of rules and orders. So far as I could see from turning over the leaves, the same sets were given in both books. It was alleged (though not sworn) that the sets were identical; and it was argued that at least so far as they were identical, they showed what the English rules of practice were in November, 1877. But this is clearly far from being

proof. The books, in fact, are not evidence at all of anything, not even of the dates on which they profess to be published; and assuming the dates on the title pages to be accurate, everybody who knows the practice of book publishers knows there is no conclusion to be drawn thence that the 1st November, 1877, was covered by these books or either of them. If it were alleged that there was an English code of that date, even if it were made up of many sets of orders, I might perhaps venture to assume, though by some forcing of the words, that that "code of rules and orders" was intended by the Order in Council of 16th July; even then it is to be observed that not the whole of such a code nor a single provision of it would at once, *i. e.* by virtue of its being the English code of that date, be the rule of this Court; but only such of the provisions of that code as might by competent authority be declared to be applicable here; these only would, I think, under the recent order in Council, be the "rules and orders" of this Court.

But neither in these volumes can I find, nor have counsel been able to point out any code at all connected with the date, 1st November, 1877. The 1st November, 1875 and 1876, 1st December, 1877, and 1st January, 1878, are epochs marked out for various purposes in the English authorities. But I have not been made aware of any English book or statute, or rule or order which bears special reference to the date 1st November, 1877. And if there be no code of that date I do not think it is my province, indeed, I feel quite sure that I have no right or power, to sit down and examine all the English rules since 1873 (for there have been many bodies of rules issued), and all the decisions upon them, and determine for myself which rules were and which rules were not in force there on the 1st November, 1877, and to what extent and in what sense, and how far they have been modified. What may have been the then English rules in force is a matter of fact to be determined by evidence like any other fact; it is not at all a matter which I can judicially decide for myself; it is quite of elementary knowledge to say that I cannot take judicial notice of the state of any foreign laws, either of their doctrine or practice. And it is just as much a matter of foreign law to say what rules and orders were in force at a given date in England as to say what was then the course of practice in France or Germany. Mr. Davie very roundly alleged in argument that the recent Order in Council declares the various English codes, *viz.*: those in the schedules of the Acts, 1873 and 1875, those issued by the Judges in June, 1876, and October, 1877, and the others, if others there be, to be the rules of this Court so far as they are applicable here, and that concerning this applicability, the judges are to decide as they actually do decide on the non-applicability of the English Statutes (earlier than 1859) under the English Law Ordinance, 1867, and that the judges have the same authority in the two cases. But I feel constrained to deny every clause in this suggestion. The Order in Council does not ordain that the rules above-mentioned, or any other particular set of rules, whether in force in England or not on the 1st November, 1877, or on any other day, shall be the rules of this Court; but it says something quite different. Had this been done, a copy of the Statutes, or of the rules, printed by the Queen's printer, would probably have been evidence sufficient and accessible of what the English rules were.

Even thus there might have been considerable difficulty under the word "applicable," to know whether any particular rule had been imported here by the Order in Council; but at least we might have thus learnt what the English rules were, some (not all) of which were to be imported. But instead of this the Order in Council says "the rules and orders in force in England on the 1st November, 1877, so far as the same are applicable to this Province," shall be the rules here.

It is not therefore, sufficient that we should be informed what were the sets of rules issued in England in 1875, in June, 1876, &c.; we have to discover what the English practice was on the 1st November, 1877; what "rules and orders" were in force there on that day; and I perceive no method of arriving legally and regularly at that information except in the one invariable way (*viz.*) by the testimony of an expert. And I may point out by the way that perhaps this evidence would have to be given afresh on every separate application; very probably in every separate action, since the evidence in one action is not generally evidence in any other.

Suppose, for the sake of argument, that the Order in Council had ordained that the practice in the French Courts on such a date should be the rule of practice here; or that so much of the Code Napoleon as was in force in France at such a date was to be the rule here (of doctrines or practice, it is immaterial), would a suitor be entitled simply to come here with the Code Napoleon in his hand and tell us to decide for ourselves? It is as well known as any common thing can be known that this is not at all a course which can be pursued or permitted.

Neither is it exact to draw any argument from the clause in the English Law Ordinance, 1867. In the first place, the phraseology in that Ordinance (which is an Act of Parliament) is just the reverse of that in the Order in Council. By the former Ordinance all the English Statutes are in force at once and continue to be in force here unless declared to be inapplicable. But by the Order in Council none of those English rules are to be in force at all, unless and until declared to be applicable by the proper authority. Even, therefore, if we are informed what the rule on any particular point was in England on the 1st November, 1877, it is not necessarily, under the Order in Council, to be a rule here at all; not unless the Lieutenant-Governor in Council declares it to be applicable. For I apprehend the Lieutenant-Governor in Council must be the sole arbiter of the applicability; otherwise the Judges here would easily be enabled to retain the old practice and rules. If the decision rests with them, then by merely refraining from admitting the applicability of any particular English rule they in fact decide that it is not a rule in B. C. at all. And so by the horse-tail theorem one modern

rule after another might be eliminated, contrary to the strongest intentions of the statutory arbiter, and then by the force of sec. 19 of the Judicature Act the old or former rules and practice would be continued.

Neither is the authority of the Judges at all the same in the two cases. Ever since the first commencement of statute law, from before the commencement of legal memory, the still older Common Law has always insisted that not the Executive but the Judiciary are to interpret statutes; and statutes we interpret still. But here is statutory power and authority to ordain rules given, contrary to all precedent, to the Executive, and I read in this a very strong intimation by the Legislature that with this discretionary power the Judiciary are not to meddle: the Executive alone is to be the only competent authority for this purpose. So far from being analagous, as Mr. Davie suggested, the two positions seem contrasted as strongly as is well possible.

It is true, when the rules are laid down by the authority in whom the Legislature has placed its confidence, we shall have, if possible, to interpret them; but nothing can be clearer, I think, than that our powers are limited to the interpretation. The Executive alone must tell us what the rules are.

To sum up, Mr. Davie asks me to do two things, each of which is beyond my power. First, to declare what was the English rule of practice in respect of summonses of this description on the 1st November, 1877. That is a matter of fact which, according to the common rule of evidence, must be proved by an expert. Next, he wishes me to declare of any particular English rule (assuming it to be discovered) that it is applicable—*i. e.*, to declare that it is a rule here; whereas the Legislature has expressly said that it is the Lieutenant-Governor in Council who shall alone have authority to declare what is a rule of practice here.

Being utterly in the dark as to the foundation of the authority which I am now called on to exert, I make no order on the application, not even as to costs. I do not know that these proceedings are *coram judice* at all, and have no means of knowing. Everything that I have said as to the law of this case is of course of the commonest knowledge; but if authority is wanted it is laid down in stronger language than I have used and with italics (rare in text books) by Mr. Taylor in section 5, and again in sec 1280.

HARVEY VS. CORPORATION OF NEW WESTMINSTER.

Judicature Act, 1879.—Rules of Court.—Jurisdiction.—Authority to make Rules.—Delegation of power.

On a summons to change venue.

Held, that since the Judicature Act, 1879, and the Order in Council thereunder of the 20th July, 1880, the Judge had no jurisdiction to continue, hear, and make order under the old system and practice upon a summons.

That the Judicature Act, section 17, sub-section 2, authorizes the Lieutenant-Governor in Council to make Rules of Court, which is a power which only the Lieutenant-Governor in Council can exercise, and cannot delegate; and the Judge having no power to make rules, cannot make one for continuing the old practice notwithstanding the new, and that it was not shown what rules the Lieutenant-Governor in Council had made.

The Chief Justice's decision in Saunders vs. Reed Brothers, followed.

[Before Mr. Justice Crease.]

AUGUST 6, 1880.

This was a summons taken out on the 16th December last by the defendants for the plaintiff to show cause before me at Chambers at 11 a.m. why the *venue* in the declaration in an action for damages for negligence should not be changed from Victoria to New Westminster, where it was alleged to have arisen, and the witnesses reside, and why the declaration should not be amended accordingly.

Assuming that the summons is still valid and subsisting, have I jurisdiction to continue, hear, and make order, under the old system and practice, upon a summons commenced under the old rules, now that since the 20th July, 1880, the Judicature Act of 1879, with the Order in Council, has come into operation? If I have not, any hearing would be *coram non judice* and be a nullity. Is there any clause in the Act like those in the Probate Act and our Supreme Court Acts upon total changes of system, providing for continuing proceeding commenced under the old system by the same system and rules, after the change? On reference to the Judicature Act I can find no such clause.

Counsel attending the summons stated that in some of the rules passed under the English Judicature Act a provision was made, by special rule, for continuing under the rules of the old system proceedings commenced under it.

But the Chief Justice, Sir Matthew Begbie's decision in Chambers is, that it has not been shown that that, these, any, or which of the English rules applicable here were in force in England on the 1st November, 1877, under the recent B. C. Order in Council which purports to make rules and orders for working the Judicature Act. In that Act, however, sec. 17, sub-section 2, there is a provision that the Lieutenant-Governor in Council may from time to time, etc., make Rules of Court among other things for settling the forms of writs, forms of actions, parties to actions, evidence, and the *mode and place of trial*, etc. That is, in fact, to settle the present application which is one to *change the place of trial*. Consequently here is a substantive provision in an Act, now law, covering this very ground.

Then sec. 22 adds, "nothing in any existing Acts or Ordinance which is repugnant to the context of or is inconsistent with the B. C. Judicature Act shall have any force or effect." The order asked for would certainly be inconsistent with the new Act in two ways:

1st. With section 17, sub-section 2, which deals with that very subject under the proposed new rules.

2nd. It asks the Judge who has no power to make rules, to make a rule for continuing old proceedings under the old practice notwithstanding the new. This is a power which only the Lieutenant-Governor in Council can exert, and cannot delegate.

It is shown to me that he has made some rules, but it is not shown to me what they are. Without that evidence, however, I cannot make any order herein.

Had the Lieutenant-Governor in Council, instead of the present proclamation of rules and orders, simply proclaimed that pending the preparation of proper rules *in extenso* (a work of excessive labour, time and care—in England it occupied all the Judges two and a half years) the old rules and practice should be continued *ad interim*, the administration of law could have gone on without let or hindrance.

Or, had the present Order in Council been simply cancelled, or had no new rules whatever been made, in either of those cases, as I read it—section 19 of the Judicature Act, 1879, which seems to have been provided expressly to prevent all difficulty or delay while complete rules were being prepared, would itself temporarily, but at once, have introduced, *by statute*, rules, practice and procedure, in full working order, to have carried out all the provisions of the Judicature Act, without either check or delay.

As it is, I am not in a position to make any order on the present application.

HENRY P. PELLEW CREASE.

PAMPHLET V. IRVING.

Judicature Act, 1879.

Practice.—Rules of Court.—Authority of Lieutenant-Governor to make Rules.—Delegation of Authority.

On a Summons for leave to serve notice requiring a Jury:—

Held that the Order in Council of the 20th July, 1880, made under the Judicature Act, 1879, ordaining that the Rules and Orders in force in the High Court of Justice in England on the 1st November, 1879, should, so far as the same should be applicable, be the Rules and Orders of the Supreme Court of British Columbia, was a nullity, as the Legislature had given discretionary power to the Lieutenant-Governor in Council to make Rules, which could not be delegated. That the Order in Council delegated that discretionary power to some one else, and was therefore contrary to law and unauthorized by the Judicature Act, and consequently under Section 19 the old Rules continued in force, and it became unnecessary to enquire what the English Rules were.

FRIDAY, AUG. 20, 1880.

Before Mr. Justice Gray.

This is an application by Mr. Theodore Davie for an order under Chapter 26 of the Consolidated Statutes, to have this cause tried by jury.

Mr. Eberts, on behalf of the defendant, objects that since the new Judicature Act the Judge has no power to make any order, contending that he is sustained in that view by the decisions of the Chief Justice in *Reed & Co. vs. Saunders*, and of Mr. Justice Crease in *Harvey vs. New Westminster*.

The question substantially is—what are the forms and method of procedure now in force in the Supreme Court of this Province?

In April, 1879, the local legislature passed "An Act to amend the practice and procedure of the Supreme Court of British Columbia, and for other purposes relating to the better Administration of Justice."

This Act was decidedly an improvement on the existing law and unobjectionable in all its features save—singular to say—the one out of which the present difficulty has arisen. After making several provisions, which will hereafter be referred to, this Act, by the 17th section, gave power to the Lieutenant-Governor, from time to time after the passing of this Act, by Order or Orders in Council, to make rules, to be styled "Rules of Court," *for carrying the Act into effect*, and in particular for all or any of the following matters, that is to say: Then follow eight sub-sections specifying in detail almost all the various matters and things necessary for conducting the civil business of the Courts, and indicating in distinct and comprehensive terms, one after the other, the particular classes of matters and things for which the legislature gave him power to make those rules. Then, after a most unimportant section,—that attorneys should be called solicitors—by the 19th section it expressly enacts that when *provisions to the contrary are not made by the Act, or the new rules so to be made*, the old forms and method of procedure in the Supreme Court shall continue to be used and practiced as if the Act had not been passed. The section is very clear: "Save as by this Act, or by any Rules of Court, is or shall be otherwise provided, all forms and methods of procedure which at the commencement of this Act were in force in the said Supreme Court (not inconsistent with this Act, or any Rules to be made by virtue of this Act) may continue to be used and practiced in the said Supreme Court in such and the like cases, and for such and the like purposes, as those to which they would have been applicable if this Act had not been passed."

On the 16th July, 1880, it was announced by proclamation in the Royal Gazette that the Act was to come into force on the 20th; and on the same 16th in the same Gazette, the Lieutenant-Governor in Council, by another proclamation, ordered (as alleged in the Order) "*in pursuance of the power vested in him by the Act referred to, that on and after the 20th July, 1880, the Rules and Orders in force in Her Majesty's High Court of Judicature in England on the 1st of November, 1877, so far as the same are applicable to this Province, shall be the Rules and Orders in force in the Supreme Court of British Columbia.*"

In the case of Reed against Saunders, the learned Chief Justice of this Court decided that it was not shown to him what were the Rules in force in England on the 1st November, 1877, and though it might be assumed that under this Order there were some Rules for the governance of this Court, it was incumbent on the party making the application to show what those Rules were.

In the view I take of this Act and the Order in Council as set out in this Proclamation, I go further than the Chief Justice has so far adjudged, and am of opinion that the Order in Council does not put in force in this Province a single Rule of the High Court of Judicature in England, in fact that the Order makes no Rules whatever in that respect, and is so far as relates thereto a perfect nullity. It will be observed, the Order in Council says, only such Rules *as are applicable to the Province* shall be in force in the Province. Before, therefore, any one of the English Rules can be in force in the Province, it is a condition precedent that it must be applicable. Who, then, has the Legislature said, shall determine whether it is applicable or not? assuming for the sake of argument that the Legislature could have supposed so vague an order would have been made.

It is one of the first principles of statutory law, or the law governing the construction of statutes, that when a statute vests a particular party or person with a discretionary power he cannot delegate that power to any other person. He must exercise the discretion himself, and his exercise of that discretion cannot be questioned even by a superior tribunal. We have before us examples day by day. A magistrate may by statute for certain offences fine *or* imprison, or fine *and* imprison, the selection of one or the other of those punishments, or the imposition of both, is a matter for his discretion, and when he exercises it it becomes law, and the sentence is legal.

The merest tyro in the legal profession would not venture to uphold the position that the magistrate could say to his subordinate, "You determine whether the culprit shall be fined or imprisoned *or* both. Do what *you think best.*" Then in applying this principle, is not the determining the applicability of any particular rule to the Province a selection of that rule for the Province, and would not such selection then be an exercise of discretion in the person making the selection, and if he be not the person authorized by the Statute, what right has he to make it?

The Legislature gives the power; none but the Legislature can give it, and in this Act it gives that power to the Lieutenant-Governor and to no one else, and it does not by the Act give him authority to transfer it to any one else. He is then by law a trustee of that power for the end the Legislature named, and cannot clothe another with the trust. The English law books teem with authorities to this end.

There seems to have been a terrible confusion of mind in applying the principle which governed the construction of the local ordinance No 70, introducing the English law into this Province, and the construction of the Order-in-Council assumed to have been made under this Act.

In the former the Legislature *itself* introduced the English law, so far as it was not inapplicable, and it became, therefore, the duty of the judges as *ex officio* the expounders of the law, to determine what was or was not inapplicable. *But the Legislature does not by the present Judicature Act introduce the English rules into the Province, or say that they shall be in force, so far as they are applicable.* It must be distinctly understood that there is not one word in the Act to that effect. *Had it done so it would at once have made them law*, and it would at once have become the duty of the Judges to apply the law, and say what was applicable or what was not. But the Legislature says the Lieutenant-Governor-in-Council may make the rules. It gives *him* the discretion. He is not tied down to the English rules or any other set of rules. He may make whatever rules he thinks best, but he must tell what they are. He may or may not select a single English rule; but if in the exercise of his discretion he deems it best to do so he must specify what the rule is, and himself determine its applicability to the Province. It then becomes a rule of this Court. *It then becomes law* under the Statute, and the Judges must carry it out; but he cannot delegate that discretion or put the responsibility on any one else.

There is some loose idea that Orders-in-Council are law, but Orders-in-Council only become law, or have the effect of law, when they are *in strict accord with the Act* which authorizes them to be made. They are simply putting in force provisions of Statutes, the operation of which the Legislature has deemed it best for some period to suspend. And when so put in operation they become as if they were embodied in the original Statute, and are as imperative as any other part of the Statute; but that is not the case when the Order-in-Council, though assumed to be, or even asserting in its terms that it is, made in pursuance of the Statute, is nevertheless a manifest departure from the Statute, then the Order-in-Council is *ultra vires*, and has not even the shadow of law to rest upon. That is exactly the case here; the order is a departure from the Statute. The indiscretion of imposing this duty on the Lieutenant-Governor was pointed out at the time the Act was being passed through the Legislature, but with the full power of determining, the Legislature did determine that he should discharge it, and they gave him no authority to transfer it to anyone else.

An examination of the course pursued in Canada on the establishment of the Supreme and Exchequer Courts, and the introduction of the new rules and practice clearly sustains this conclusion; Chaps. 11 and 12, 1875.

In the first instance the Dominion Parliament itself by direct order declares what shall be the line of action: Sec. 24. "Proceedings in appeals shall, when not otherwise provided for by this Act, or by the general rules and orders to be made in pursuance thereof, be as nearly as possible in conformity with the present practice of the Judicial Committee of Her Majesty's Privy Council.

Sec. 61. "The procedure in suits and actions within the jurisdiction of the Exchequer Court shall, unless it be otherwise provided for by general rules made in pursuance of this Act, be regulated by the practice and procedure of Her Majesty's Court of Exchequer at Westminster, on its revenue side.

Then comes Sec. 79. "The Judges of the Supreme Court, or any five of them, may from time to time make general rules and orders for regulating the procedure of and in the Supreme Court, and the bringing of cases before it from Courts appealed from, or otherwise; and the procedure of the Exchequer Courts, and for the effectual execution and working of this Act, and the attainment of the intention and objects thereof, etc., etc.; and all such rules not being inconsistent with the express provisions of this Act, shall have force as if herein enacted. Provided that copies of all such rules shall be laid before both Houses of Parliament of Canada at the next session thereof."

And in Sec. 16, c. 12, the Petition of Rights Act, "It shall be lawful, etc.," page 87, substantially similar in purport and effect.

Here the Parliament of Canada has declared the line of action. It does not then authorize the Governor-General by Order-in-Council to make rules to carry the Acts into effect; but authorizes the Judges to do so, and thus that duty by law devolves upon them. The Judges do not delegate that power to any one else, but immediately exercise the discretion with which the Parliament clothed them. And under the first Act make in extenso 77 rules; and under the 2nd Act, c. 12,—after in the first rule repeating the positive directions of the Parliament, that the practice, forms, mode of procedure, &c., should conform as near as may be to the process, forms, and mode of procedure in use in like causes in Her Majesty's High Court of Justice in England, *except so far as might otherwise be provided by that Act or by the rules to be made*, proceed to make no less than 261 rules to guide the practitioners and suitors, and in order that the spirit of the Secs. 24 and 61, chap. 11, before quoted, may not be overlooked, by two distinct rules, 30 and 258, reiterate the directions of the Parliament. And who is to expound these rules when questions arise upon them? The men who made them. Who are they? The Judges to whom the Parliament delegated that power with certain directions to guide them, and who *ex officio* are the expounders of the laws the Parliament enacts. There is nothing uncertain there. The Parliament says distinctly what shall be. Then examine the British Columbia Act. First—It sets forth in plain terms the rules under which law and equity shall be administered—rules of construction or guidance—as they might be called under the Act. Secondly—Rules declaring what the law shall be hereafter in certain matters. For instance: Administration of assets, suits for possession of land by mortgagors, mandamus, custody of infants, &c.; then it makes a number of excellent provisions on various matters for which legislation was required; and then by the 17th section, says, for the purpose of *carrying this Act into effect* the Lieutenant-Governor may make rules to be styled "Rules of Court," and in particular, for sittings, pleadings, practice, forms, reports, &c., in a word, all that would be necessary to make the Act work. These would be rules of procedure.

Here it will be perceived the Act indicates no line of action, as the Canadian Acts did, but leaves the making of the rules entirely to the discretion of the Lieutenant-Governor. *There could not be a broader instance of discretion.*

What, then, is done? A proclamation is issued. What is the effect of it? Go to England. And whatever rules you can pick up there applicable to this Province, let them be the rules. Can any one suppose that was what the Legislature intended? Was not the power so given by the Legislature to the Lieutenant-Governor—a power and discretion he and his Council were distinctly and personally to exercise for the benefit of the Province, and a power and discretion which the Legislature did not choose to give to any one else? They had the Canadian Acts before them in which the power was given to the Judges and the rules made by the Judges under the authority so given. But the Legislature said we will not follow that plan. We will not give that power to the Judges. We will that the Lieutenant-Governor in Council shall make the rules, and they so declare.

The mode he adopts of making them is to tell somebody else to do it—because the mode he points out necessitates the selection from a large mass of the particular English rules applicable to this Province. Whoever then makes the selection practically makes the rules—and that is *a discretion* the Legislature expressly refused to any one but himself.

Making rules—affecting the conflicting rights of individuals as to person and property—for the administration of justice, the attainment of evidence, the facilities of legal business and the adjudication of questions of trade and commerce, requires experience, knowledge of law, steady industry, and great patience. With the course of both England and Canada—where this duty was imposed upon the Judges—before it the Legislature of the Province preferred the experience, legal knowledge, steady industry, and great patience of the Lieutenant-Governor in Council, and after eighteen months' exercise of these estimable qualifications, the first step taken is a violation of one of the very first principles of law—namely, that a discretionary power given by statute to a par-

ticular person or officer cannot be by him delegated to another person to be exercised.

As an illustration of the futility of this Order in Council, take for instance the 5th section, which says a Full Court of the said Supreme Court shall consist of one or such other number of Judges sitting together as may be determined upon by Rule of Court, and a Full Court *shall be held at such times and places as may be fixed by rules of Court* for the purpose of transacting any business assigned to it by this Act or by rule of Court.

This is one of the matters provided for under the 1st sub-section of section 17 for which the Lieutenant-Governor is to make rules *to carry the Act into effect—viz., the sitting of a Court in British Columbia at such times and places as may be fixed by rules of Court.* Yet the Order in Council is that you are to look through the English rules in force in England on the 1st November, 1877—nearly three years before this Act came into operation—to find the times and places which *may be fixed* for the sitting of this Court in British Columbia under this Act. The Legislature never contemplated anything so absurd.

It is clear that the Act intended that the Lieutenant-Governor should make the rules in plain terms; or if he really thought the English rules would answer, he should order so, either of the whole or of such parts, *distinctly specifying them* as would answer, and not leave them to anybody else. The discretion is his—cannot be delegated and cannot be questioned. If he will read the English rules and select them, or select them without reading, or even without knowing them, and simply order in absolute terms that such and such rules shall be in force (and publish them in the Gazette or otherwise proclaim and declare them, so as to avoid any question as to the evidence of what the rules may be,) they will become law, and the Judges will carry them out regardless of all consequences, if it is possible in British Columbia so to do.

For the reasons I have given, I think the Order in Council does not fill and is not in accordance with the requirements of the Act. It is in this respect an order not sanctioned by law, and is therefore to that extent a nullity.

Then, this being so, no new rules have been made, and, under the 19th section, the old forms and methods of procedure are still in force, where not inconsistent with the specific provisions of the Act.

The objections pointed out by the Chief Justice when referring to the evidence necessary to establish the proposed new rules, had any such been legally made (and the mode of obviating which in the future I have just indicated,) will in no way apply to those old forms and methods of procedure. The 19th section is a clear statutory declaration that there was a form and method of procedure in force and in use in the Province at the time of the commencement of the Act (whether originally introduced according to the strict rules of evidence or not is immaterial), and gives a direct legislative sanction and permission to its being continued and practiced. The present application comes before me in accordance with that old form and method, and is in no way inconsistent with the Act itself, and cannot be with any rules made by virtue of the Act, for none have been made, and I therefore consider I have ample power to deal with it.

I do not wish there should be the slightest misunderstanding as to the grounds of my decision. They are clear and distinct:—

1st. That the Legislature gave a discretionary power to the Lieutenant-Governor by Order in Council to make rules for carrying the Act into effect, and he cannot delegate that power to any one else.

2nd. That an Order in Council, saying that the English Rules, *where applicable to this Province*, without specifying them, should be in force, is delegating that discretionary power, with which the Legislature clothed him, to some one else, is contrary to law and not authorized by the Act.

3rd. That the Order in Council is consequently to that extent illegal, of no effect, and makes no new rules; and, therefore, that under the 19th section the old form and method of procedure continue.

If either party is dissatisfied with my ruling, I will give every facility immediately to refer it to the Full Court.

Memo.—August 23rd.—Since the delivery of the above judgment, I have been informed that the point within decided by me was not argued in *Harvey vs. the Corporation*.
J. H. G.

